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Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by Al-Haq, Law in the Service of Man, the BADIL Resource Center for Palestinian Residency and Refugee Rights and the Cairo Institute for Human Rights Studies, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Legalising the Illegal: The Status of Jerusalem and Unlawful Forcible Transfer*

Since 1948, Israel's colonisation, displacement, dispossession, and demographic alteration in Jerusalem have violated international law governing the status of Jerusalem. Following the United States of America's unilateral recognition of Jerusalem as Israel's capital, Israel has furthered its unlawful settlement enterprise in the Occupied Palestinian Territory (OPT). In January 2018, Israel's Parliament adopted a second amendment to the Basic Law on Jerusalem. The original adoption of the Basic Law in 1980, providing for the *de jure* annexation of occupied East Jerusalem, was internationally condemned by the United Nations Security Council.[1] Since then, the Knesset has advanced a number of bills aimed at further altering Jerusalem's borders, annexing settlements, and revoking Palestinians' residencies.

I. Status of Jerusalem

Since 1967, Israel has pursued its demographic vision of a 'Greater Jerusalem' aimed at expanding the city's municipal borders to annex illegal settlements, while ensuring an overwhelming Israeli Jewish majority in the city.[2] Currently, approximately 65 percent of settlers reside in what Israel calls the 'Greater Jerusalem' area,[3] while in East Jerusalem, settlers constitute some 43 percent of the population.[4] Meanwhile, Israel's discriminatory planning and zoning regime has caused an acute housing shortage for Palestinians in East Jerusalem. Israel's Jerusalem Municipality only grants 7 percent of building permit requests to Palestinian residents, despite them making up some 40 percent of Jerusalem's total population. Forced to build without a permit, around 100,000 Palestinians are at risk of 'administrative' demolitions in East Jerusalem.5 Israel further appropriated 35 percent of the land for settlement construction in East Jerusalem, while Palestinians are only allowed to build on 13 percent.

Since 2017, Israel has implemented unilateral measures to redraw the municipal borders of Jerusalem, adopting legislation to remove Palestinian neighbourhoods behind the Annexation Wall from the city, while annexing settlements in the Jerusalem periphery. On 2 January 2018, the Knesset adopted Amendment No. 2 to the Basic Law on Jerusalem, which requires an 80-member majority vote in order to transfer "authority related to the area of Jerusalem [...] to a foreign body, whether political or governmental,"[6] thus pre-empting negotiations with the Palestinian Authority on Jerusalem and denying Palestinians the right to self-determination in their capital. At least six other bills, currently under consideration by the Parliament, aim at illegally altering the borders and demographic composition of Jerusalem.[7] For instance, the bill for the 2017 Jerusalem and Its Daughters Law will extend Jerusalem's jurisdiction to the 'local authorities' of Beitar Illit, Ma'ale Adumim, Giv'at Ze'ev, Gush 'Etsion, and Efrat settlements, while creating 'daughter municipalities' for the Palestinian neighbourhoods of Kufr 'Aqab, Shu'fat Refugee Camp, and 'Anata, located behind

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[1] Security Council Resolution 478 (1980).

[2] Israel's demographic target for 2020, as set in 2009, is 60 percent Israeli Jews to 40 percent Palestinians in Jerusalem.

[3] Israel's Central Bureau of Statistics recorded 175,900 settlers living in 'Israeli localities in Judea and Samaria' in Jerusalem's 'metropolitan area' in 2016, http://www.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st02_25&CYear=2017. *See also* B'Tselem on the number of settlers in the OPT: B'Tselem, 'Statistics on Settlements and Settler Population', updated 11 May 2017, https://www.btselem.org/settlements/statistics.

[4] According to the Palestinian Central Bureau of Statistic, 264,937 Palestinians lived in East Jerusalem in 2016.

5 OCHA, 'High numbers of Demolitions: the ongoing threats of demolition for Palestinian residents of East Jerusalem', 2017, https://www.ochaopt.org/content/high-numbers-demolitions-ongoing-threats-demolition-palestinian-residents-east-jerusalem.

[6] Basic Law Bill: Jerusalem, Capital of Israel (Amendment No. 2), P/20/4346 (unofficial translation).

[7] Proposed Basic Law: Jerusalem, Capital of Israel (Amendment – Referendum), P/20/4524; Proposed Basic Law: Jerusalem Capital of Israel (Amendment – West Jerusalem), P/20/1752; Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City – 2017 [5771], P/20/4546; Bill for the Jerusalem and Its Daughters Law, P/20/4386; Bill for the Jerusalem and Its Daughters Law – 2017 [5778], P/20/4109; and Proposed Greater Jerusalem Law, P/20/4158.

the Annexation Wall, and threatening the removal of at least 140,000 Palestinians from Jerusalem.8 These bills patently violate Israel's obligations, as Occupying Power, to refrain from altering the character of the OPT, including East Jerusalem, and further violate the right of Palestinians in Jerusalem to choose their own residence, to movement, to family life, to health, to education, and to a range of entitlements and facilities necessary for the fulfilment of their fundamental rights.

2. Status of Palestinian Residents of Jerusalem

Since 1967, Israel has revoked the residency status of more than 14,500 Palestinians from Jerusalem.9 Israel conferred 'permanent residency' status on Palestinians in Jerusalem, which can be arbitrarily revoked by Israel's Ministry of Interior (MoI) on a number of grounds, including for living 'outside of Israel' (such as in the West Bank, excluding East Jerusalem, and the Gaza Strip) and not being able to prove 'centre of life' in Jerusalem.

On 13 November 2017, several Members of Knesset introduced a bill to grant the MoI discretion to revoke the residency status of "residents of East Jerusalem and the Golan Heights" on the ground of 'breach of loyalty' to the State of Israel.[10] In June 2006, Israel revoked the residency of the former Palestinian Minister of Jerusalem and of three Palestinian parliamentarians on 'breach of allegiance' grounds. The four petitioned Israel's Supreme Court challenging the authority of the MoI to revoke permanent residency status on this basis.11 In 2013, while the case was pending, the four threatened Palestinians were forcibly transferred out of Jerusalem, while the MoI revoked the residency status of nine other Palestinians, currently serving long-term prison sentences, on the same ground. In September 2017, some 11 years later, Israel's Supreme Court ruled that the MoI has no legal authority to revoke residency status based on 'breach of allegiance', acknowledging the illegality of the measure.12

Israel further denies family unification and child registration as a tool of Palestinian displacement and demographic control. In June 2017, Israel's Parliament renewed for the fourteenth consecutive time the Citizenship and Entry into Israel Law (Temporary Order) of 2003, practically freezing all family unification applications. Prior to the 2003 'Temporary Order', the spouse of a Palestinian Jerusalem resident would receive permanent residency status following a lengthy and discriminatory family unification process. Since 2003, spouses of Palestinians in Jerusalem only receive 'temporary permits', subject to annual renewal. Israel imposes stringent age criteria on unification; only women 25 years or older, or men 35 years or older, can apply. Between 1995 and 2013, Israel refused 43 percent of family unification applications, including 20 percent for 'security reasons'. Individuals may further have their unification permits punitively cancelled if Israel considers their extended family members an 'indirect security threat'.

Between 2016 and 2017, Israel introduced bills to legalise punitive residency revocation. The Interior Minister may "cancel the visa or permanent residency permit of the relative of a person who performs a terrorist act or contributes to it, whether through an act or by knowledge, before, during, or after the undertaking of that act".[13] Recently, the MoI punitively revoked the residency status of family members of alleged Palestinian attackers. Following Fadi Qunbar's alleged attack in January 2017, Fadi's niece Sawsan Allan received a letter informing her that the MoI was revoking her husband's residency permit, although he had lived in Jerusalem on family unification permits since 2007. The MoI also

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[8] Jaclynn Ashly, 'Palestinians in Kufr Aqab: "We live here just to wait"', Al-Jazeera, 7 January 2018, http://www.aljazeera.com/news/2018/01/palestinians-kufr-aqab-live-wait-180107073623251.html.

[9] B'Tselem, 'Statistics on Revocation of Residency in East Jerusalem', updated 27 May 2015, https://www.btselem.org/jerusalem/revocation_statistics.

[10] Bill for the Entry into Israel Law (Amendment – Applicability to East Jerusalem's residents and resorting to the Interior Minister's judgment), 2017, P/20/4744.

[11] HCJ 7803/06, Abu Arafeh et al.

[12] Article 45, Hague Regulations.

[13] Proposed Entry into Israel Law (Amendment – Cancellation of Visa and Permanent Residence Permit for Terrorists and Their Families due to Participation in Terrorist Activity) – 2017 [5767], P/20/3994 (unofficial translation).

punitively revoked the residency permits of nine Qunbar family members, and the permanent residency status of Fadi's mother. These measures clearly amount to collective punishment, in violation of international law.[14]

Conclusion and Recommendations

Since 1948, Israel has altered the character, status, and demographic composition of Jerusalem, forcibly transferring Palestinians from the city. By legislating for the removal of Palestinian neighbourhoods behind the Annexation Wall, and the revocation of Palestinians' residency status, Israel continues to gradually eliminate Palestinian presence in Jerusalem. Accordingly, we call on Israel, as Occupying Power, to:

1. End its occupation of the OPT, including East Jerusalem;
2. Suspend and repeal all legislation and bills seeking to alter the status of Jerusalem;
3. End practices leading to forcible transfer in the OPT;
4. Dismantle all settlements in the OPT, including in and around East Jerusalem, and cease further settlement construction and expansion;
5. Dismantle the Annexation Wall and its associated regime, and ensure territorial contiguity within the OPT.

We further call on third States, including Member States of the Human Rights Council:

6. Not to recognise as lawful any changes to the character, status, and composition of Jerusalem;
7. To end impunity for international crimes, including forcible transfer, committed in the OPT;
8. To cooperate to bring to an end Israel's occupation and to impose sanctions against the State of Israel.

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*Community Action Centre (Al-Quds University) and The Society of St. Yves – Catholic Center for Human Rights, NGOs without consultative status, also share the views expressed in this statement.

[14] Article 33, Fourth Geneva Convention.